

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL A. KELLY,

Plaintiff,

CASE NO. 13-CV-15068

v.

DISTRICT JUDGE THOMAS L. LUDINGTON
MAGISTRATE JUDGE CHARLES BINDER

MATTHEW MILLER, *et al.*,

Defendants.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
ON PLAINTIFF'S MOTION TO VOLUNTARILY DISMISS

(Doc. 6)

I. RECOMMENDATION

IT IS RECOMMENDED that Plaintiff's motion to voluntarily dismiss the case prior to service on the defendants be **GRANTED**.

II. REPORT

On December 13, 2013, Plaintiff Michael A. Kelly, a disabled veteran, filed a *pro se* petition for writ of mandamus seeking copies of documents in the possession of the Veterans Health Administration. (Doc. 1.) By order of U.S. District Judge Thomas L. Ludington, the case was referred to the undersigned magistrate judge for general case management on December 31, 2013. (Doc. 5.)

On January 2, 2014, Plaintiff filed a motion to dismiss the case (Doc. 6), stating that he has obtained a copy of the document he was seeking. (*Id.*)

Accordingly, I suggest that Plaintiff's motion be granted and that the case be dismissed with prejudice.

III. Review

Pursuant to Rule 72(b)(2) of the Federal Rules of Civil Procedure, "[w]ithin 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. A party may respond to another party's objections within 14 days after being served with a copy." Fed. R. Civ. P. 72(b)(2). *See also* 28 U.S.C. § 636(b)(1). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed.2d 435 (1985); *Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The parties are advised that making some objections, but failing to raise others, will not preserve all the objections a party may have to this Report and Recommendation. *Willis v. Sec'y of Health & Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this magistrate judge.

s/ Charles E Binder

CHARLES E. BINDER
United States Magistrate Judge

Dated: January 10, 2014

CERTIFICATION

I hereby certify that this Report and Recommendation was electronically filed this date, and served by first class mail on Michael A. Kelly, 1205 Norman St., Saginaw, MI, 48601.

Date: January 10, 2014

By s/Jean L. Broucek
Case Manager to Magistrate Judge Binder